



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

JRE  
Docket No: 8586-97  
13 September 1999

From: Chairman, Board for Correction of Naval Records  
To: Secretary of the Navy

Subj: FORMER [REDACTED]  
REVIEW OF NAVAL RECORD

Ref: (a) 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments  
(2) Psych ltr dtd 3 Jun 98  
(3) NCPB ltr 5420 Ser:99-33, 27 Apr 99  
(4) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that his naval record be corrected to show that he was retired by reason of physical disability.
2. The Board, consisting of Messrs. Adams, Ensley and Pfeiffer, reviewed Petitioner's allegations of error and injustice on 10 June 1999 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.
3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:
  - a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.
  - b. Although, it appears that enclosure (1) was not filed in a timely manner, it is in the interest of justice to waive the statute of limitations and review the application on its merits.
  - c. Petitioner reenlisted in the Navy on 28 January 1982, with approximately two years of prior active service. He underwent a pre-separation physical examination on 23 August 1985, and stated that he was in good health at that time. He denied a history of frequent trouble sleeping, depression or excessive worry, and nervous trouble of any sort. He was honorably discharged on 23 August 1985, because of a diagnosed personality disorder. He underwent a psychiatric evaluation on 26 December 1985 at a civilian facility. The examiner's impression was that diagnoses of bipolar disorder and cyclothymic disorder

should be entertained, and that it did not appear likely that Petitioner had a personality disorder. The examiner prescribed lithium carbonate, and Petitioner continued to take that medication intermittently for many years. On 14 October 1997, the Department of Veterans Affairs awarded him a 10% rating for bipolar disorder. The rating was increased to 30% in a rating decision dated 4 December 1997.

d. In correspondence attached as enclosure (2), a designee of the Specialty Leader for Psychiatry advised the Board, in effect, that in his opinion, Petitioner developed bipolar disorder during his Naval service. He noted that the differential diagnosis between bipolar disorder and borderline personality disorder is often difficult, particularly in young bipolars who are in the early stages of their illness. It is not uncommon for these patients to be initially diagnosed as "borderlines".

e. In correspondence attached as enclosure (3), the Board was advised by the Director, Naval Council of Personnel Boards, in effect, that available records support the conclusion that Petitioner was unfit for duty because of bipolar disorder, which was ratable at 10% at the time of his discharge by reason of a personality disorder.

f. Petitioner contends, through counsel, in effect, that his chronic feeling of emptiness and rage, poor self-concept, limited coping resources, and propensity to impulsive and self-destructive behavior, including suicidal ideation, most closely approximate the criteria for a disability rating of 30%.

#### CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner should have been discharged by reason of physical disability, as recommended by the Director, Naval Council of Personnel Boards. It further concludes that the rating decisions of the Department of Veterans Affairs made more than twelve years after Petitioner was discharged from the Navy are not probative of his contention that his condition was ratable at 30% in 1985.

In view of the foregoing, the Board finds the existence of an injustice warranting the following corrective action.

#### RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he was not discharged by reason of a personality disorder on 23 August 1985.


b. That Petitioner's naval record be further corrected to show that on 22 August 1985, while he was entitled to receive basic pay, the Secretary of the Navy found him unfit to perform the duties of his rate by reason of physical disability due to bipolar disorder, which was incurred while Petitioner was entitled to receive basic pay; that the disability is not due to intentional misconduct or willful neglect, and was not incurred during a period of unauthorized absence; that the disability is considered to be ratable at 10% in accordance

with the Standard Schedule for Rating Disabilities in use by the Veterans Administration at the time the Secretary found Petitioner unfit, Code Number 9399-9206; and that the Secretary directed that Petitioner be discharged by reason of physical disability with entitlement to severance pay effective 23 August 1985 pursuant to 10 U.S. Code 1203.

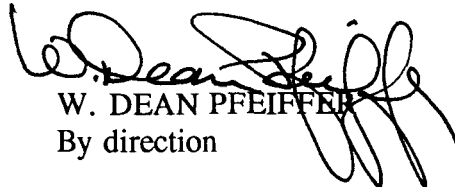
c. That a copy of this Report of Proceedings be filed in Petitioner's naval record.

4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN  
Recorder

  
JAMES R. EXNICIOS  
Acting Recorder

5. The foregoing report of the Board is submitted for your review and action.

  
W. DEAN PFEIFFER  
By direction

Reviewed and approved: OCT 18 1999



CHARLES L. TOMPKINS  
Deputy Assistant Secretary  
of the Navy for Personnel Programs